

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOHN GABRIEL RODRIGUEZ,

Petitioner,

v.

CIVIL NO. 06-0078 JH/DJS

MICHAEL MARTIN, Warden,

Respondent.

ORDER


This matter having come before the Court on the proposed findings and recommended disposition of the United States Magistrate Judge, no objections to the proposed findings and recommended disposition having been filed, and the Court having made a determination of the Magistrate Judge's proposed findings and recommended disposition;

IT IS HEREBY ORDERED that the proposed findings and recommended disposition of the United States Magistrate Judge are adopted by the Court;

IT IS FURTHER ORDERED that Respondent shall file an Amended Answer to the Petition incorporating Petitioner's state *habeas* and any other state post-conviction proceedings which also addressed Petitioner's Traverse (Docket No. 14); that Respondent's Motion to Dismiss (Docket No. 7) is denied without prejudice to Respondent's ability to renew that motion following an amended Answer; that Petitioner's Motion to Stay (Docket No. 10) is moot; that Petitioner's Motion to Withdraw Motion to Stay (Docket No. 13) is granted; and that

Respondent shall file transcripts of the plea proceeding and the sentencing hearing in State v. John Gabriel Rodriguez, No. CR-2004-205 in the Fifth Judicial District, Eddy County, New Mexico.

IT IS FURTHER ORDERED that this matter is referred to the Magistrate Judge for further findings and a proposed ultimate disposition once the foregoing has occurred.



HON. JUDITH C. HERRERA
UNITED STATES DISTRICT JUDGE